

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/13/19
--

-----X
LISA LOCURTO, et al.,

Plaintiffs,

-v.-

AT&T MOBILITY SERVICES LLC,

Defendant.

ORDER

13 Civ. 4303 (AT) (GWG)

-----X
GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

Having considered the parties' recent submissions, the Court adheres to its ruling at the January 10, 2019, conference that defendants should be permitted to take discovery from a sample of absent class members to address the issues of discretion/judgment, hours worked, and how on-call time was spent.

The sample size proposed by defendants is larger than the Court expected. Given the burdens on class members and counsel that result from taking depositions, the Court does not believe that the high margin of error suggested by the Court, and that apparently resulted in the defendants' proposed number, is appropriate. More importantly, there is no suggestion by either party that the sample would be used for a mathematical extrapolation of any kind.

Plaintiffs suggest that, if a representative sample must be ordered, it should be in the 20-30 range. The Court finds this range to be reasonable. Accordingly, defendants are free to take an additional 25 depositions from randomly chosen class members. (If a randomly selected person has already been deposed, that person shall be included in the 25 count.) Defendant's questioning at the deposition shall be limited to two hours (assuming appropriate cooperation by the witness) and may be conducted, at plaintiffs' option, by telephone.

On or before February 20, 2018, the parties shall jointly propose a schedule (or, if agreement cannot be reached, competing schedules) for the completion of discovery and other proceedings in this case.

SO ORDERED.

Dated: February 13, 2019
New York, New York


GABRIEL W. GORENSTEIN
United States Magistrate Judge